

§ 162.234 Must a tenant provide a bond under an agricultural lease?

Unless otherwise provided by a tribe under §162.203 of this subpart, or waived by us at the request of the owners of a majority interest in an agricultural lease tract, the tenant must provide a bond to secure:

- (a) The payment of one year's rental;
- (b) The construction of any required improvements;
- (c) The performance of any additional lease obligations, including the payment of operation and maintenance charges under §162.228(b) of this subpart; and
- (d) The restoration and reclamation of the leased premises, to their condition at the commencement of the lease term or some other specified condition.

§ 162.235 What form of bond can be accepted under an agricultural lease?

(a) Except as provided in paragraph (b) of this section, a bond must be deposited with us and made payable only to us, and such a bond may not be modified or withdrawn without our approval. We will only accept a bond in one of the following forms:

- (1) Cash;
- (2) Negotiable Treasury securities that:
 - (i) Have a market value at least equal to the bond amount; and
 - (ii) Are accompanied by a statement granting full authority to us to sell such securities in case of a violation of the terms of the lease.
- (3) Certificates of deposit that indicate on their face that our approval is required prior to redemption by any party;
- (4) Irrevocable letters of credit issued by federally-insured financial institutions authorized to do business in the United States. A letter of credit must:
 - (i) Contain a clause that grants us the authority to demand immediate payment if the tenant violates the lease or fails to replace the letter of credit at least 30 days prior to its expiration date;
 - (ii) Be payable to us;
 - (iii) Be irrevocable during its term and have an initial expiration date of not less than one year following the date of issuance; and

(iv) Be automatically renewable for a period of not less than one year, unless the issuing financial institution provides us with written notice that it will not be renewed, at least 90 calendar days before the letter of credit's expiration date.

(5) A surety bond issued by a company approved by the U.S. Department of the Treasury; or

(6) Any other form of highly liquid, non-volatile security that is easily convertible to cash and for which our approval is required prior to redemption by any party.

(b) A tribe may accept and hold any form of bond described in paragraph (a) of this section, to secure performance under an agricultural lease of tribal land.

§ 162.236 How will a cash bond be administered?

(a) If a cash bond is submitted, we will retain the funds in an account established in the name of the tenant.

(b) We will not pay interest on a cash performance bond.

(c) If the bond is not forfeited under §162.252(a) of this subpart, we will refund the bond to the tenant upon the expiration or termination of the lease.

§ 162.237 What insurance is required under an agricultural lease?

When necessary to protect the interests of the Indian landowners, an agricultural lease must require that a tenant provide insurance. Such insurance may include property, crop, liability and/or casualty insurance. If insurance is required, it must identify both the Indian landowners and the United States as insured parties, and be sufficient to protect all insurable improvements on the leased premises.

§ 162.238 What indemnities are required under an agricultural lease?

(a) An agricultural lease must require that the tenant indemnify and hold the United States and the Indian landowners harmless from any loss, liability, or damages resulting from the tenant's use or occupation of the leased premises, unless:

- (1) The tenant would be prohibited by law from making such an agreement;